

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS WHITLOW,

Defendant.

4:14CR3015

ORDER FOR TAKING
TRIAL DEPOSITIONS
AND TRANSFER OF
DEFENDANT

The court has held that three material witnesses for the government are unable to attend trial in Nebraska, their testimony may be preserved for trial by deposition, and the defendant must be transported to those depositions and is entitled to attend the depositions absent further order of the Court. Since that order was entered, one of these material witnesses was diagnosed with mouth cancer and may be unable to participate in a deposition at his local federal courthouse. As to that witness, this change in medical circumstances may impact the continued viability of the court's prior order.

Accordingly,

1) The government's motion, (Filing No. 201), is, in part, granted; and, in part, set for further hearing as follows:

a. The United States Marshals Service shall transport the Defendant for his personal appearance, with counsel, at the following depositions:

i. The deposition of the witness/victim named in the indictment as "E.B." will be taken in Roanoke, Virginia, at the United States Federal Building, on October 17, 2014. The undersigned magistrate judge has set aside 8:00 a.m. to 2:00 p.m. (C.D.T.) on her calendar to be available to monitor the defendant's conduct during the

deposition.

- ii. The deposition of the witness/victim set forth in the indictment as “E.E.” will be taken at the United States Federal Building in Jonesboro, Arkansas, on October 29, 2014. The undersigned magistrate judge has currently reserved that entire day to be available to monitor the defendant’s conduct during a deposition.
- iii. The undersigned magistrate judge will not be ruling on any evidentiary objections raised during the depositions, such matters to be resolved by the presiding judge upon review of the deposition transcripts or recordings.
- iv. As soon as they are reasonably able to do so, the parties shall advise the undersigned magistrate judge of the specific time selected for the depositions, and shall advise the Marshal’s Service of the time, exact address and Court location of the depositions.

2) As to the witness/victim set forth in the indictment as “J.M.”, that portion of the government’s motion remains pending, and:

a. An evidentiary hearing will be held before the undersigned magistrate judge on October 6, 2014 at 10:00 a.m. in Courtroom No. 2, United States Federal Building, Lincoln, Nebraska, to further address this witness’ ability to be deposed at the federal court in Charleston, South Carolina due to his recent diagnosis of mouth cancer and the anticipated treatment and impairments related to that treatment, and whether there are other reasonable and constitutional means of securing J.M.’s testimony for trial.

b. If prior to October 6, 2014, the Marshal has started transporting the defendant to the Roanoke, Virginia deposition location, the defendant will appear telephonically at the hearing before me on October 6, 2014.

September 30, 2014.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge